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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

- v. -

\$690,000 IN UNITED STATES CURRENCY
FORMERLY ON DEPOSIT IN BANK OF
AMERICA ACCOUNT NUMBER XXXX2359
HELD IN THE NAME OF LV.NET LLC LV
NET,

and

\$81,284.03 IN UNITED STATES CURRENCY
FORMERLY ON DEPOSIT IN BANK OF
AMERICA ACCOUNT NUMBER XXXX2488
HELD IN THE NAME OF CALIFORNIA
IOLTA TRUST ACCOUNTS MADAEN LAW,
INC.,

Defendants-in-rem.

**VERIFIED CIVIL
COMPLAINT FOR
FORFEITURE**

22 Civ. 266

Plaintiff United States of America, by its attorney, Damian Williams, United States Attorney for the Southern District of New York, for its verified civil complaint, alleges, upon information and belief, as follows:

INTRODUCTION

1. This action is brought pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and 984, by the United States of America seeking the forfeiture of the following:

- a. \$690,000 in United States currency, formerly on deposit in Bank of America Account XXX2359, held in the name of “LV.NET LLC LV NET” (the “LV Account”), (“Defendant Funds-1”); and
- b. \$81,284.03 in United States currency, formerly on deposit in Bank of America Account XXXX2488, held in the name of “California IOLTA Trust Accounts Madaen Law, Inc.” (the “IOLTA Account”), (“Defendant Funds-2,” and, collectively with Defendant Funds-1, the “Defendant Funds”).

2. As set forth below, the Defendant Funds are subject to forfeiture pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and 984, as proceeds traceable to wire fraud and conspiracy to commit wire fraud, in violation of Title 18, United States Code, Sections 1343 and 1349, or property traceable thereto.

JURISDICTION AND VENUE

3. This Court has original jurisdiction over this forfeiture action pursuant to Title 28, United States Code, Sections 1345 and 1355.

4. Venue is proper in this District pursuant to Title 28, United States Code, Section 1395, because the Defendant Funds are currently held in the Seized Asset Deposit Fund Account of the United States Marshals Service, located within the judicial district for the Southern District of New York. Venue is also proper pursuant to Title 28, United States Code, Section 1355(b)(1)(A), because the acts and omissions giving rise to the forfeiture took place in the Southern District of New York.

FACTUAL ALLEGATIONS

5. This action arises out of an investigation conducted by the Federal Bureau of Investigation (“FBI”) into a conspiracy to defraud victims via a business email compromise scheme.

6. On or about June 10, 2021, a commercial banking institution (the “Savings Bank”) notified the FBI of a fraudulent scheme (the “Scheme”) involving an account of one of the Savings Bank’s customers (the “Victim Co.”).

7. Investigators learned that at some point prior to April 21, 2021, the email account of Victim Co.’s Chief Financial Officer (the “Victim CFO”) was compromised.

8. On or about April 21, 2021, one or more individuals used the Victim CFO’s compromised email account to contact the Savings Bank. These individuals asked a Savings Bank employee to add a new financial controller (“Person-1”)¹ as a signatory to Victim Co.’s accounts. These individuals sent the Savings Bank employee a driver’s license photo, social security number, and telephone number for Person-1, and they exchanged additional emails using the Savings Bank employee using the Victim CFO’s compromised email account.

9. After Person-1 was added as a signatory to the Victim Co. accounts, Person-1’s credentials were used to transfer money from a Victim Co. account at the Savings Bank (the “Victim Account”) to accounts held by third parties at different financial institutions.

10. From on or about May 12, 2021 to on or about June 1, 2021, ten unauthorized wire transfers were sent from the Victim Account to accounts at different financial institutions, totaling \$3,488,000.

¹ Investigators later learned that Person-1 was the victim of identity theft. Person-1’s identity has been used in several fraudulent schemes in different parts of the country.

11. Four of the ten unauthorized wires from Victim Account, totaling \$1,570,000, were sent to Bank of America Account Number XXXX8657 (the “8657 Account”), held in the name of a marketing and research company. These transfers were made as follows:

- a. On or about May 12, 2021, the Victim Account sent a wire transfer to the 8657 Account in the amount of \$400,000.
- b. On or about May 13, 2021, the Victim Account sent a second wire transfer to the 8657 Account in the amount of \$400,000.
- c. On or about May 14, 2021, the Victim Account sent a third wire transfer to the 8657 Account in the amount of \$370,000.
- d. On or about May 17, 2021, the Victim Account sent a fourth wire transfer to the 8657 Account in the amount of \$400,000.

12. Shortly after the 8657 Account received funds from the Victim Account, the 8657 Account made transfers to the LV Account and the IOLTA Account. These transfers occurred as follows:

- a. On or about May 12, 2021, \$200,000 was transferred from the 8657 Account to the LV Account.
- b. Also on or about May 12, 2021, \$160,000 was transferred from the 8657 Account to the IOLTA Account.
- c. On or about May 13, 2021, \$40,000 was transferred from the 8657 Account to the LV Account.
- d. Also on or about May 13, 2021, \$250,000 was transferred from the 8657 Account to the LV Account.
- e. On or about May 14, 2021, \$200,000 was transferred from the 8657

Account to the LV Account.

13. In total, from on or about May 12, 2021 to on or about May 14, 2021, \$690,000 was transferred from the 8657 Account to the LV Account, and \$160,000 was transferred from the 8657 Account to the IOLTA Account. These transfers were made shortly after funds were sent from the Victim Account to the 8657 Account.

14. On or about June 8, 2021, Victim Co.'s Chief Executive Officer ("CEO") sent the Savings Bank's Business Support Development Officer a letter stating that certain wire transfers from the Victim Account were fraudulent and had been made without approval of Victim Co.'s CEO or CFO.

15. In connection with its investigation into the Scheme, the Government obtained a seizure warrant on or about August 11, 2021 (the "Seizure Warrant") for the contents of the LV Account and the IOLTA Account. The Seizure Warrant was executed and the Defendant Funds were seized by the FBI and deposited in the Seized Asset Deposit Fund Account with the Federal Reserve Bank.

16. Based on the foregoing, the Defendant Funds are subject to forfeiture because they constitute or are derived from proceeds of wire fraud or conspiracy to commit wire fraud, in violation of Title 18, United States Code, Sections 1343 and 1349.

CLAIM FOR FORFEITURE

Forfeiture Under 18 U.S.C. § 981(a)(1)(C) (Property Constituting or Derived from Proceeds Traceable to a Violation of 18 U.S.C. §§ 1343 and 1349 or Property Traceable to Such Property)

17. Paragraphs 1 through 16 of this Complaint are repeated and re-alleged as if fully set forth herein.

18. Section 981(a)(1)(C) of Title 18, United States Code, subjects to civil forfeiture: “Any property, real or personal, which constitutes or is derived from proceeds traceable to ... any offense constituting ‘specified unlawful activity’ (as defined in section 1956(c)(7) of this title), or a conspiracy to commit such offense.”

19. Section 1956(c)(7)(A) of Title 18, United States Code, in turn provides that the term “specified unlawful activity” includes, among other things, “any act or activity constituting an offense listed in section 1961 of this title except an act which is indictable under [31 U.S.C. §§ 5311 et seq.].” The list of offenses identified in 18 U.S.C. § 1961(1) are thus included within “any act or activity constituting an offense listed in section 1961(1) of this title.”

20. Among the offense set forth in 18 U.S.C. § 1961(1) are violations of 18 U.S.C. §§ 1343 (wire fraud) and 1349 (conspiracy to commit wire fraud).

21. Section 984 of Title 18, United States Code, provides, in pertinent part:

(a)(1) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution (as defined in section 20 of this title), or precious metals—

(A) it shall not be necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture; and

(B) it shall not be a defense that the property involved in such an offense has been removed and replaced by identical property.

(2) Except as provided in subsection (b), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

* * *

(d) Nothing in this section may be construed to limit the ability of the Government to forfeit property under any provision of law if the property involved in the offense giving rise to the forfeiture or property traceable thereto is available for forfeiture.

22. By reason of the foregoing, the Defendant Funds are subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C) and 984 as property constituting or derived from proceeds traceable to an offense constituting “specified unlawful activity,” namely, violations of Title 18, United States Code, Sections 1343 and 1349.

23. Accordingly, by reason of the foregoing, the Defendant Funds became and are subject to forfeiture to the United States of America, pursuant to Title 18, United States Code, Section 981(a)(1)(C).

WHEREFORE, plaintiff United States of America prays that process issue to enforce the forfeiture of the Defendant Funds and that all persons having an interest in the Defendant Funds be cited to appear and show cause why the forfeiture should not be decreed, and that this Court decree forfeiture of the Defendant Funds to the United States of America for disposition according to law, and that this Court grant plaintiff such further relief as this Court may deem just and proper, together with the costs and disbursements of this action.

Dated: New York, New York
January 11, 2022

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York
Attorney for the Plaintiff
United States of America

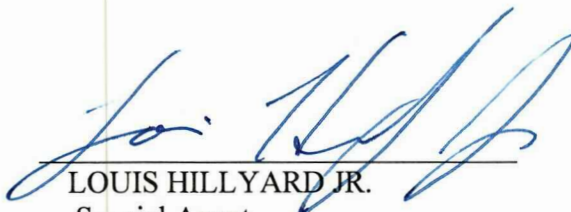
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DECLARATION OF VERIFICATION

LOUIS HILLYARD JR., pursuant to Title 28, United States Code, Section 1746, hereby declares under penalty of perjury that he is a Special Agent with the Federal Bureau of Investigation ("FBI"); that he has read the foregoing Verified Complaint and knows the contents thereof; that the same is true to the best of his knowledge, information and belief; and that the sources of his information and the grounds of his belief are his personal involvement in the investigation, and conversations with and documents prepared by law enforcement officers and others.

Executed on January 11, 2022



LOUIS HILLYARD JR.
Special Agent
Federal Bureau of Investigation